HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

WRIT PETITION No. 935 OF 2005

Dated 30-01-2006

Between :

1. Mohd. Basheeruddin, son of late Qazi Mohd. Mohiuddin Ali, aged about 62 years, resident of 22-2-256, Inside Dabeerpura, Hyderabad and another.

(Both the petitioners are represented by their G.P.A. Holder Sri A. Pankdurangam son of late Sri Veeraiah jee, aged about 51 years, Business, resident of 16-1-506/3, Saidabad, Hyderabad.)

….Petitioner.

And :

1. The Mandal Revenue Officer, Gh,atkesar Mandal, R.R. District and others.

…Respondents.

ORDER :

This writ petition has been filed by the petitioners who are two in number with a prayer to issue order or direction more particularly one in the nature of writ of Certiorari and to quash the Memo A/92/2004 dated nil-01-2005 issued by the Mandal Revenue Officer, Ghatkesar Mandal, R.R. District-1st respondent.

2. The petitioners are the owners and possessors of the land admeasuring Ac.1.00 in Sy. No.576/B/2 of Ghatkesar village and Mandal, Ranga Reddy District. They got the said land in pursuance of the decree granted in partition suit being O.S.No.664 of 1985 on the file of the Additional Chief Judge-cum-Principal Special Judge, City Civil Court, Hyderabad. After passing final decree in the said suit, they made an application for demarcation of their land. Their application came to be rejected by the 1st respondent under Memo No.A/92/2004 dated nil-01-2005. Hence this writ petition.

3. The 2nd respondent filed counter stating that Srinidhi Homes Pvt. Ltd., is a

necessary party to the writ petition. The relevant portion of the counter affidavit reads as follows :

> "The petitioners have submitted "No Objection Certificate" from some of the pattadars and pursuant to the same, necessary directions were issued to the Inspector of Survey to conduct survey in Sy. No.576 Ghatkesar. The Survey Team inspected the land on 12-07-2004 for conducting survey but however having received objections in writing from M/s Srinidhi Homes Private Ltd., Habsiguda, Hyderabad claiming right over part of the land by virtue of an agreement of sale said to have been executed by the brothers of the petitioners, could not conduct survey and necessary endorsement to this effect was given to the petitioners vide this office proceedings dated 15-09-2004. The survey could not be conducted for the entire land in Survey No.576 situated at Ghatkesar in view of the objections raised by the 3rd party. Though the 1st respondent issued proceedings based on the communication of the 2nd respondent, the fact remains that the survey could not be conducted as the land is not sub-divided and as the consent of all pattadars having right over the land was not submitted. If the petitioners implead the third party i.e., M/s Srinidhi Homes Pvt. Ltd., as party respondent to the writ petition and necessary orders are passed by the Hon'ble High Court for survey and this respondent, the respondents may not have any objection to conduct the survey. As stated supra, the survey will be conducted for the entire land with the consent of all the pattadars in case, if the land is not sub-divided. The land in Survey No.576 is not subdivided and the survey will be conducted as and when the consent of al the pattadars is submitted to this office. Hence, it is prayed that this Hon'ble Court may be pleased to pass appropriate orders.

4. In view of the objection raised by the 1st respondent, the petitioners filed the W.P.M.P. No.27463 of 2005 seeking impleadment of M/s. Srinidhi Homes Pvt. Ltd., as party respondent in the writ petition. Inspite of notice being served on the proposed party, the proposed party did not choose to oppose the said W.P.M.P. and accordingly, the same is being allowed on this day by a separate order.

5. Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue appearing for the respondents 1 and 2.

6. The only objection for the 1st respondent for grant of relief sought for in this writ petition is non-impleadment of M/s Srinidhi Homes Pvt. Ltd., as a party respondent in the writ petition. Since the said objection has been complied by filing W.P.M.P., there can not be any impediment for the respondents 1 and 2 to consider the request of the petitioners for demarcation of their land.

7. In that view of the matter, the writ petition is disposed of directing the

respondents 1 and 2 to consider the application of the petitioners for demarcation of their lands and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.

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Justice B. Seshasayana Reddy

Dated 30-01-2006

Dvs

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